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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/458,581	12/09/1999	MUSTAFA PINARBASI	SA99814L	9016
7590	12/04/2003		EXAMINER	
PAIK SABER INTERNATIONAL BUSINESS MACHINES CORP DEPT L2PA 5600 COTTLE ROAD SAN JOSE, CA 95193			MCDONALD, RODNEY GLENN	
			ART UNIT	PAPER NUMBER
			1753	
			DATE MAILED: 12/04/2003	

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/458,581	Applicant(s) PINARBASI, MUSTAFA
	Examiner Rodney G. McDonald	Art Unit 1753

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 29 September 2003.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 32,34,36-42,44,46,48,49,51,53 and 55-93 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) 32,34,36-42,44,46,49,51,53,55-62 and 64-82 is/are allowed.

6) Claim(s) 63 and 83-93 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) The translation of the foreign language provisional application has been received.
14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

1) Notice of References Cited (PTO-892) 4) Interview Summary (PTO-413) Paper No(s). _____ .
2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) Notice of Informal Patent Application (PTO-152)
3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____. 6) Other: _____ .

DETAILED ACTION

Claim Rejections - 35 USC § 112

Claims 63 and 83-93 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 63 is indefinite because the angle β is zero. It is unclear as to how the angle can be zero and have a plane.

Claim 83 is indefinite because the angle β is zero. It is unclear as to how the angle can be zero and have a plane.

Claim 88 is indefinite because the angle β is zero. It is unclear as to how the angle can be zero and have a plane.

Claim 91-93 is indefinite because the phrase "wherein the angles α and β is greater than zero" is unclear. It is unclear because to be angle the angles must necessarily be greater than zero.

Allowable Subject Matter

Claims 32, 34, 36-42, 44, 46, 48, 49, 51, 53, 55-62 and 64-82 are allowed.

Claims 32, 34, 36-42, 44, 46, 48, 49, 51, 53, 55-62 and 64-82 are indicated as being allowable over the prior art of record because the prior art of record does not teach the oblique ion beam sputtering utilizing the disclosed angles.

Response to Arguments

Applicant's arguments filed 9-29-03 have been fully considered.

Applicant's arguments and exhibit with respect to the "acute" angles and the planes of the claims are persuasive. The remaining issue is whether the angle β can be zero degrees. As demonstrated by Applicant the angle β is not an angle when it is 0 degrees. This is demonstrated by Applicant's exhibit and argued by Applicant See Applicant's argument page 17. Therefore a new 35 U.S.C. 112 2nd paragraph rejection to the indefiniteness of claims with the limitation that the angle β be zero has been made above.

This action is made NON-FINAL based on the new 35 U.S.C. 112 rejection made above.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rodney G. McDonald whose telephone number is 703-308-3807. The examiner can normally be reached on M- Th with Every other Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nam X. Nguyen can be reached on 703-308-3322. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9310.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.



Rodney G. McDonald Primary
Examiner Art Unit 1753

RM
December 3, 2003